

CALIFORNIA FRANCHISE TAX BOARD

Internal Procedures Manual
Water's Edge Manual

Rev.: September 2001

EXHIBIT 5A PENALTY PROCEDURES

I. PENALTY FOR FAILURE TO FILE OR TIMELY FILE A DDS

This penalty is to be assessed when the DDS is delinquent or never filed and the tax liability exceeds all timely payments and credits.

RECEIVED DATE

To determine if the DDS is delinquent use the postmark date, if available, as the received date. If no postmark is available, the FTB stamped date will be considered the received date.

DDS DUE DATE OR EXTENDED DUE DATE

The DDS due date can be obtained from the water's-edge PC file - (DDS due date is 6 months from date tax return filed). An extension to file the DDS can be granted for up to 4 months. The water's-edge PC file will indicate if there is an approved DDS extension.

AMOUNT OF PENALTY

The amount of the penalty is 5% of the unpaid tax plus 5% per month not to exceed 25% of the unpaid tax from the due date or extended due date of the DDS to the date filed.

1. SUPPLEMENTAL

Data to be input on the Supplemental Assessment Form FTB 5903:

- (1) Taxpayer's name
- (2) "X" in Release Billing box (date only required if not to be billed at processing)
- (3) Corporation Number
- (4) Posting Control
- (5) Income Year Ended
- (6) DDS Due Date or Extended Due Date
- (7) Revenue Code - 3462004 (1st 3 numbers should be auditor's Payroll Code)

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(8) Penalty Description - DDS-DELQ PEN

(9) Penalty Transaction Code (3-digits) - 258

(10) Amount of Penalty

(11) Requester Code and Auditor Initials

(12) Current Date

All penalty assessments are to be reviewed by supervisor. Any supplemental notice over \$5,000 must be initialed & approved by supervisor.

. NPA

Any increases in the unpaid tax will result in an increase in this penalty.

The penalty can be assessed on the BCT NPA Worksheet by completing the blank line under the penalty section.

| | | | |
|---------------------|--------------------|------------------|---------------------------------|
| (1) | (2) | (3) | (4) |
| <u>DDS-DELQ PEN</u> | <u> </u> % of \$ | <u>ADD. TAX=</u> | AMOUNT OF PENALTY |
| | | | (5) |
| | | | <u>DDS DUE DATE OR EXTENDED</u> |
| | | | <u>DUE DATE</u> |

Auditor is required to fill in on NPA:

(1) Penalty Description - DDS-DELQ PEN

(2) Percentage

(3) The additional tax amount upon which the penalty is based

(4) Total amount of penalty

(5) DDS due date or extended due date (required for interest computation)

The DDS delinquent penalty can be assessed at the same time as other penalties on an NPA.

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NPA PARAGRAPH:

We have assessed a domestic disclosure spreadsheet delinquent filing penalty of 5% of the tax after timely payments or credits, for each month or fraction thereof until the spreadsheet is filed, not to exceed 25%, from the due date or extended due date of the domestic disclosure spreadsheet.

3. Interest is assessed from the DDS due date or extended due date.

4. The taxpayer can be assessed both the penalty for filing the DDS late and the penalty for failure to complete the DDS. These are not "either/or" penalties. One does not cancel out the other. They cannot, however, accrue at the same time.

II. FAILURE TO FILE A COMPLETE DDS

This penalty is to be assessed when the taxpayer:

1. fails to file the DDS within 90-days of written notification
2. fails to substantially complete the DDS.

1. SUPPLEMENTAL

Data to be input on the Supplemental Assessment Form FTB 5903:

- (1) Taxpayer's name
- (2) "X" in Release Billing box (date only required if not to be billed at processing)
- (3) Corporation Number
- (4) Posting Control
- (5) Income Year Ended
- (6) Current Date
- (7) Revenue Code - 3462004 (Auditor use your own Payroll Code)
- (8) Penalty Description - DDS-INCOMP
- (9) Penalty Transaction Code (3-digits) 259

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(10) Amount of Penalty

(11) Requester Code and Auditor Initials

(12) Current Date

All penalty assessments are to be reviewed by supervisor. Any supplemental notice over \$5,000 must be initialed & approved by supervisor.

AMOUNT OF THE PENALTY-

The amount of the penalty is 5% of the tax before timely payments or credits plus 5% per month not to exceed 25% of the tax before timely payments or credits from the expiration of 90 days given to correct the deficiency and the submission of the requested information.

2. NPA

Any increases in tax will result in an increase in this penalty. The penalty can be assessed on the BCT NPA Worksheet by completing the blank line under the penalty section.

| (1) | (2) | (3) | (4) |
|-------------------|-------------------------------------|-----|-----------------------------|
| <u>DDS-INCOMP</u> | <u> </u> % of \$ <u>ADD. TAX</u> | = | <u>\$ AMOUNT OF PENALTY</u> |

Auditor is required to fill in on NPA:

(1) Penalty Description - DDS-INCOMP

(2) Percentage

(3) The additional tax amount upon which the penalty is based

(4) Total amount of penalty

The failure to file a complete DDS can be assessed at the same time as other penalties on an NPA.

NPA PARAGRAPHS:

LATE FILED OR NOT FILED AFTER 90-DAY NOTIFICATION PENALTY

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We have assessed a failure to file a Domestic Disclosure Spreadsheet penalty of 5% of the tax, for each month or fraction thereof, not to exceed 25%, from the date of the expiration of the 90 days given to file the Domestic Disclosure Spreadsheet.

INCOMPLETE PENALTY

We have assessed a failure to file a complete Domestic Disclosure Spreadsheet penalty of 5% of the tax, for each month or fraction thereof, not to exceed 25%, from the expiration of 90 days given to correct the deficiency and the submission of the requested information.

3. Interest is assessed from the date of the notice or NPA.
4. The taxpayer can be assessed both the 25% late filing penalty and the 25% failure to complete penalty. These are not "either/or" penalties. One does not cancel out the other. They cannot, however, accrue at the same time.

III. CANCELLATION OF WATER'S-EDGE PENALTIES

Complete Form FTB 5843, Cancellation of Liability, to abate or partially abate water's-edge penalties.

Data to be input on the Cancellation of Liability form:

- (1) Taxpayer's Name
- (2) Corporation Number
- (3) Posting Control
- (4) Income Year Ended
- (5) Transaction Date (Date penalty assessed from the B&C Master File)
- (6) Revenue Code (Same as the one used to assess the penalty)
- (7) Penalty Code:

532 - Cancellation of Failure to File DDS

534 - Cancellation of Failure to Complete DDS or Failure to File DDS after Notification

- (8) Amount of Penalty to be Abated

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(9) Reason for Cancellation

(10) Requester Code and Auditor's Initials

(11) Current Date